

## REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a full and complete response to the Official Action dated May 29, 2008. In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due reconsideration to this application, to indicate the allowability of the claims, and to pass this case to issue.

### Status of the Claims

Claims 1, 3-5 and 7-15 are under consideration in this application. Claims 1, 5 and 8 are being amended, as set forth in the above marked-up presentation of the claim amendments, in order to correct formal errors and/or to better recite or describe the features of the present invention as claimed. All the amendments to the claims are supported by the specification. Applicants hereby submit that no new matter is being introduced into the application through the submission of this response.

### Prior Art Rejection

Claims 1, 3, 5, 7-8, 10 and 15 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Takahashi et al. (US 2004/0008664) in view of Firestone (US 6,965,646); and claims 4, 9 and 11-14 were rejected further in view of Applicant's Admitted Prior Art ("AAPA"). These rejections have been carefully considered, but are most respectfully traversed, as more fully discussed below.

The data delivery server (for example, the embodiment depicted in Figs. 1-2) of the present invention connected to a mobile terminal by way of a network for delivering an IP packet 24 having data packets 22a, 22b recorded internally of payload, as now recited in claim 1, comprises: a search module 1 for determining a maximum value of a size of one IP packet capable of passing through a channel on said network extending from said data delivery server to said mobile terminal, a packet generating module 4 for determining a number of said data packets to be stored in the payload of the IP packet on the basis of said maximum value of a size of one IP packet and for storing the determined number of said data packets into the payload of said IP packet thereby generating said IP packet without fragmenting said IP packet (p. 5, line 13; *"the packet suffering no fragmentation"* p. 8, line 11), an input/output unit for delivering said IP packet generated by said packet generating module, and a move detecting module designed for accepting a move message of said mobile terminal (claim 2). The search module 1 determines said maximum value of a size of one IP

packet depending upon a current channel on a current network (*"exchange or switching of the network due to the move of the terminal"* p. 9, lines 3-5) connecting between said data delivery server and said mobile terminal after a move of said mobile terminal (*"determining an MTU of a network extending between the server and a receiver terminal upon starting of delivery or dispatch of the data packet"* p. 6, lines 3-5) by sending out one or more search packets each of which excludes data to be included in the payload of said IP packet (83 in Fig. 8; p. 17, lines 10-14), when the move of said mobile terminal is detected by said move detecting module (claim 2). The data packets are fixed length packets of MPEG-TS (Moving Picture Experts Group-Transport Stream) (*"The packet of MPEG-TS (hereinafter referred to as the TS packet for short) is a packet of the fixed length of 188 bytes."* p. 12, last para.).

The invention of claim 8 is directed to a data delivery system comprised of a server for delivering data including data packets additionally recorded internally of payload of an IP packet and a mobile terminal connected to said server by way of a network for receiving said data. Either said server or said mobile terminal (Embodiment 2; *"the terminal searches the MTU and message the results of the search to the server"* p. 15, lines 14-15) comprises: the components and functions of the data delivery server of claim 1.

The invention of claim 5 is directed to a data delivery software embedded in a computer readable storage medium to carry out data delivery a microprocessor and an input/output unit of either said server or said mobile terminal of claim 8.

As such, the present invention determines the number of packets of fixed length MPEG-TS in an IP packet payload according to the maximum size of the IP packet.

Firestone was relied upon by the Examiner (p. 4, 1<sup>st</sup> para. of the outstanding Office Action) to teach the packet generating module for determining a number of said data packets to be stored in the payload of the IP packet on the basis of said maximum value of a size of one IP packet and for storing the determined number of said data packets into the payload of said IP packet thereby generating said IP packet without fragmenting said IP packet. However, Firestone described the size of packets of MPEG in RTP packet is variable to match RTP packet size (*"the size of the MPEG packets in the modified system stream 206 may vary to match the size of the packets for RTP protocol"* col. 8, lines 50-55), rather than "fixed" length packets of MPEG-TS" as in the present invention. In other words, Firestone teaches away from the present invention.

Other cited references fail to compensate for Firestone's deficiencies.

Applicants contend that the cited prior art references and their combinations fail to teach or disclose each and every feature of the present invention as recited in at least

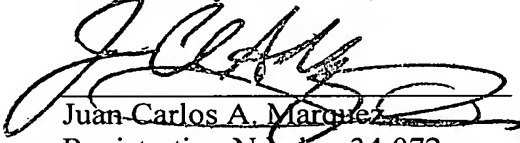
independent claims 1, 5 and 8. As such, the present invention as now claimed is distinguishable and thereby allowable over the rejections raised in the Office Action. The withdrawal of the outstanding prior art rejections is in order, and is respectfully solicited.

Conclusion

In view of all the above, clear and distinct differences as discussed exist between the present invention and the prior art references upon which the rejections in the Office Action rely, Applicant respectfully contends that the prior art references cannot anticipate the present invention or render the present invention obvious. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicant's undersigned representative at the address and telephone number indicated below.

Respectfully submitted,



Juan Carlos A. Marquez  
Registration Number 34,072

**REED SMITH LLP**  
3110 Fairview Park Drive, Suite 1400  
Falls Church, Virginia 22042  
(703) 641-4200  
**February 24, 2009**

JCM/JT